

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT
FOR THE Southern DISTRICT OF TEXAS
Galveston DIVISION
"Jury"

United States Court
Southern District of Texas
FILED

John David Kennermer 247180
Plaintiff's Name and ID Number

JAN 29 2019

John D. Bradley, Clerk of Court

Galveston Unit TDCJ
Place of Confinement

CASE NO. _____
(Clerk will assign the number)

v.

Rebecca M. Orwitz 39 Dartington Rd Richardson TX 7583
Defendant's Name and Address

Shawn M. Witting 39 Dartington Rd Richardson TX 7583
Defendant's Name and Address

Bruce Armstrong 39 Dartington Rd Richardson TX 7583
Defendant's Name and Address
(DO NOT USE "ET AL.")

Complaint with Jury Demand
INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, DO NOT USE THE REVERSE SIDE OR BACKSIDE OF ANY PAGE. ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

P X
1 of 29

page 2 of 29

Defendant Name and Address
Steve Wiese 59 Defendant Rd. Folsom TX 77583
Tina C. Oller 59 Defendant Rd. Folsom TX 77583
Defendant Name and Address
Adam W. Gwin 59 Defendant Rd. Folsom TX 77583
Defendant Name and Address
Dwileth S. Douglass 59 Defendant Rd. Folsom TX 77583
Defendant Name and Address
Tera A. Dettardo 59 Defendant Rd. Folsom TX 77583
Defendant Name and Address
Ayinde Adeyayo 59 Defendant Rd. Folsom TX 77583
Anne L. Fierland 59 Defendant Rd. Folsom TX 77583
Defendant Name and Address
Cheritha McNaught 59 Defendant Rd. Folsom TX 77583
Defendant Name and Address
Tee Kimcostry III 59 Defendant Rd. Folsom TX 77583
Defendant Name and Address
Kelli A. Blair 59 Defendant Rd. Folsom TX 77583
Defendant Name and Address
Erica L. Goode 59 Defendant Rd. Folsom TX 77583
John David Keween 3197180 1100 FM 653 Folsom TX 77583
N

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
"Suey"
BLUESTON DIVISION

FILING FEE AND *IN FORMA PAUPERIS* (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of **\$400.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE OF THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? YES NO

B. If your answer to "A" is "yes", describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: October 4th 2019

2. Parties to previous lawsuit:

Plaintiff(s) John David Hernandez

Defendant(s) Bryan Collier et al

3. Court: (If federal, name the district; if state, name the county.) Southern District Galveston Texas

4. Cause number: Civil Action 3:19-cv-00335

5. Name of judge to whom case was assigned: I am not sure

6. Disposition: (Was the case dismissed, appealed, still pending?) still pending

7. Approximate date of disposition: still pending

I

PREVIOUS LAWSUITS:

A. Have you filed any other lawsuit in state or Federal Court relating to your imprisonment? Yes

1. Approximate date of filing lawsuit: on or about January 22nd 2020
2. Parties to previous lawsuit
plaintiff John David Kewener
Defendant Parker County Et al
3. Ct Court: Northern District of Texas Fort Worth Division
4. Cause number: I do not know yet
5. Name of Judge to whom case was assigned: I do not know yet
6. Disposition: still pending
7. Approximate date of disposition: still pending

II. PLACE OF PRESENT CONFINEMENT: Ramsey Unit 100 FM 655 Rosharon Tx 77583

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure? YES NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

See Attached Exhibit "A" p.20

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: John David Kenevorn 100 FM 655 Rosharon Texas 77583B. Full name of each defendant, his official position, his place of employment, and his full mailing address.Defendant #1: Rebekka M Danzy / sergeant over the trustee Camp For TOCS Darrington Unit 59 Darrington Road Rosharon TX 77583

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Rebekka M. Danzy is not being sued in her official capacity (cont. on p.6)Defendant #2: Shawn M Wittig / supervisor for Farm operation TOCS Darrington Unit 59 Darrington Road Rosharon TX 77583

Briefly describe the acts(s) or omission(s) of this defendant which you claimed harmed you.

Shawn M. Wittig is not being sued in his official capacity (cont. on p.6)Defendant #3: Bruce Armstrong / warden of Darrington TOCS 59 Darrington Road Rosharon Texas 77583

Briefly describe the acts(s) or omission(s) of this defendant which you claimed harmed you.

Bruce Armstrong is not being sued in his official capacity (cont. on p.6)Defendant #4: Frederick L. Gooden / Major TOCS Darrington Unit 59 Darrington Road Rosharon TX 77583

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Frederick L. Gooden is not being sued in his official capacity (cont. p.7)Defendant #5: Kurtis D. Pharr / major TOCS Darrington Unit 59 Darrington Rd Rosharon TX 77583

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Kurtis D. Pharr is not being sued in his official capacity (cont. p.7)

ATTACHES THIS SUIT:

for AI

Cart
Copy
105

IV *cont.*

Parties To TTS SUIT

Defendant #3 (cont from previous page under Armstrong) knew to best of the coders and found them unfit of water. Bruce Armstrong can not be sued in his official capacity because his actions were not those of a relation acting under the Policy of TTS.

He showed sufficient indifference to the most basic of human needs to sustain lit. water is required for human life. Bruce Armstrong went against TDCS Policy and put the lives of 300 inmates in danger of death or injury" (see Seasonal Preparedness Directive - March 2019 "Exhibit B" He put life in danger of death or injury

- Briefly describe the acts or omissions of this defendant within your claimed harmed you:

Defendant #4 Frederick L. Gooden had first hand knowledge of the lack of water being given to the inmates of the TTS facility. He received more than 2 notices of no water or truck mal function. On 11/15/19 "I personally told him we had been without water all night long while on "lock down". We were provided 1/10 gallon containers of drinking water for 87 men. This is about 12 jugs of water per man. in a 24 hour period. He had the authority to have 100s or gallons of water provided to us.

Frederick L Gooden can not be sued in his official capacity while refusing to follow TDCS policy. TDCS can not be held responsible for his actions unless they forced him in this. Frederick L Gooden put my life and the lives of others in danger by not providing the most basic human need to the water.

- Briefly describe the acts or omissions of this defendant

IV. cont

PARTIES TO THIS SUIT:

Defendant #5 (cont. from previous page 5) (Kurtis O Pharr) "The Texas Department of Criminal Justice (TDCJ) is committed to ensuring every reasonable effort is made to prevent injuries related to excessive and extreme temperatures." (see first line of Seasonal Preparedness Directive - March 2019)

After seeing a man have a heat stroke in front of him, Kurtis O Pharr outward to put the lives of others in danger by not providing them with drinking water.

Endangering the lives of other is a Criminal offence in the state of Texas. Kurtis O Pharr cannot be sued in his official capacity because the State of Texas does not condone its employees committing a Criminal act. He could not be working and committing a crime at the same time.

Defendant #6 Joe Klinkowsky III / Farm manager Darrington Unit
59 Darrington Rd. Rosharon Texas 77583

- Briefly describe the acts or omissions of this defendant which you claimed harmed you.

Mr. Klinkowsky had direct knowledge (through his eyes) that the farm workers of the Darrington Unit Trustee Camp were being forced to work without drinking water on 8/24/19, 8/25/19, 8/26/19, 8/27/19, 8/28/19, and 8/29/19 when heat indexes remained above 102°.

When the Ice machine broke at the farm shop it was not reported to the warden or Region III Director.

Deliberate Indifference was shown by Joe Klinkowsky as he recklessly Endangered the lives of the Inmates that work for him. Joe Klinkowsky, cannot be sued in his official capacity for committing a crime of Endangering the lives of others Forcing them to work without water.

Joe Klinkowsky, turned a blind eye to the Policies of TDCJ. Joe Klinkowsky put my life in danger of death and injury by not following these policies.

Defendant #7 Charlotter McKnight / Lt. of Trustee Camp
59 Darrington Rd. Rosharon Texas 77583

- Briefly describe the acts or omissions of this defendant which you claim harmed you. (cont. on next page)

Court
Case
1/29/20

IV Points

PARTIES TO THIS SUIT:

Defendant #1 (not for previous page) Charlotte McKnight was responsible as the head supervisor of The Trustee Camp during 90% of the reckless indifference to the shortage of Drinking water. She had 100% knowledge that inmates were becoming sick because of no drinking water being supplied. She had the power with her task to fix the problem and chose not to.

She endangered the lives of Inmates by not providing us with the most basic human need of water. Her office was at the Trustee Camp. She saw us almost every day. She heard the cries of her inmates for drinking water and she did nothing to change the problem.

Charlotte McKnight can not be sued in her official capacity because her actions went against the policies of TDCJ. She committed a criminal act of Endangering the lives of others.

Defendant #2 ANNE R. Reynolds / Sergeant over Trustee Camp for TDCJ Darrington Unit 59 Darrington Road Rosharon TX 77583.

Briefly describe the acts or omissions of this defendant which you claimed harmed you.

This policy of TDCJ was not followed by ANNE R. Reynolds "Coordinate with Maintenance and Food Service when necessary to ensure additional water, including ice, is provided to staff and offenders in work areas and encourage high water intake throughout the day during periods of excessive heat." (p.3 First paragraph Seasonal Preparedness Directive - March 2019) p.25 Exhibit B

She endangered the lives of inmates by refusing to follow TDCJ Policy.

She endangered my life with the life's of others.

This was a criminal act under the laws in the state of Texas and TDCJ should not indemnify or hold harmless any employee who acts against the laws of this state.

Parties to this Bill:

(2007) 2
Figure 50f
Gardiner

PARTIES TO THIS SUIT:

(#10) 21

Mr. Obara refused to follow the law. Water and Crops must be available at all times, no liquids during meal times." Page 3 of Seasonal Preparedness Directive March -2019. This was continuing him on 11/19 was one specific day Exhibit C many that Sergeant Gonzales acted in his own interest and ignored their policy while putting an life in danger without one of the most basic human needs.

C.O. Fisher contacted Sergeant Gonzales at 7:00am on 11/19 and informed him there was no drinking water in I Park. We were on West dam with a water period.

Attendant by Justin C. Oparal, at River Rafting Camp 39 Canyon Rd, Rockham Texas 77583

On this describe the acts or omissions of this defendant which you claimed harmed you.

Mr. Obara was the fore on the trustee Camp. One of his jobs during lock down was to bring back water to the water tower. He knew we had no way to get the water tanks ourselves and he allowed us to go for may hours without any water.

C.O. Oparal was recklessly indifferent to our human need for drinking water on 11/19, 11/20, and 11/21/20.

These are just some of the many ways he endangered my life and the lives of others. He acted in his personal capacity committing a criminal act of endangering the lives of others.

Defendant's Steve Masse / Ass't State Director of Regan III
59 Canyon Rd, Rockham Texas 77583

Mr. Masse endangered the lives of the inmates at the Hamilton trustee camp by not replacing the water fountain he had been knowledge of them not working.

Mr. Masse put my life in danger with lack of drinking water.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

Jurisdiction: The action by the defendant's happened at the Darlington Unit of the Texas Department of Criminal Justice in Brazoria County. The defendants in this complaint all work or live on the Darlington Unit Property. The Southern District of Texas Galveston Division has jurisdiction in this case.

These defendants acted under the color of law and deprived inmates of the most basic human need of drinking water.

Let us define "drinking water" and draw a line in the sand between "Drinking water" and "water". (cont. on p.14)

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes. Trial by Jury on the issues triable

1.) The actions of defendants Dowdy, Wittig, Ayinbo, Opara, Gonzales, Douglas, Wilcox, Khukhovsky, Reynolds, (cont. on p.17)

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

John David Kenneway, John Kenneway, David Kenneway

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

2197180 TDC# I do not know anymore.

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____

2. Case number: _____

3. Approximate date sanctions were imposed: _____

4. Have the sanctions been lifted or otherwise satisfied? YES NO

State Meet of Class: (44)

STATEMENT OF EXPENSES

STATEMENT OF CLAIM(ant)

Copy
3000
3000
3000

11. (cont'd from previous page) The injury sustained by keeping
 "court-ordered" defriended of Driking users is withdrawal by the
 dehydration, the human body starts to become sick due to
 is heat, and injury is certain. Also the question is how much
 drops of my life have been lost due to the injury? This
 is for, Doctors, this Court, and a jury to decide.

12. All the defriended, or any single one of them had
 the authority with their race to supply more than
 enough drinking water for us, so the IIE machines
 do not the main building still had plenty of IIE to
 offer the main building still had plenty of IIE to
 support the Trustee Court. If All the ZCE machines
 went down at once, of Driking, The courts around Driking
 had plenty of IIE to support Driking. The courts around Driking
 had to go out of busi to supply us with Driking water,
 the truth of the fact is that if one of the defriends
 are done to go out of busi to supply us with Driking water,
 the court did not have a chance to buy water
 for the next 8 years) be subject to a transfer back to Driking
 (for the next 8 years) be subject to a transfer back to Driking
 be most supports my transfer to the other courts. I will always
 14. The injurious power of this claim should not
 buy water for the next 8 years, he did not.
 15. The injurious power of this claim should not be most
 upon my parole, I will still be under the supervision of
 TDC and the choices (according to TDC) of my parole.
 "Driking" I could be subject to be moved back to Driking
 if I come back on a parole violation. The only way these
 welfare powers should be most is if the Board of Probation and
 Paroles, freedom me for the remainder of my sentence
 16.) This has been a continuing program, please see
 of my more to know.

17.) The vibration of follows the policy of TDC.

"O." I have not been without Driking water on this court to
 date. I have not been without Driking water on this court to
 date. I have not been without Driking water on this court to

6/10/20
10:42

RELIEF:

Claims

1. (Cont from previous page) in depriving us of Drinking water or in failing to intervene to prevent dehydration were done maliciously and sadistically and constituted cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution.
- 2.) The actions of defendants Danzy, Wittig, Ayinde, Opara, Gonzales, Douglas, Wilcox, Klinkovsky, and Reynolds in Endangering the lives of others and the plaintiff without need is a Crime in the state of Texas.
- 3.) The failure of defendants Armstrong, Gooden, Pharr, and Massie to take disciplinary or other action to curb the known pattern of dehydration by the guards not providing water, constituted deliberate indifference to the plaintiff's and other prisoners' safety and contributed to and proximately caused the above-described violation of Eighth Amendment rights and Endangerment of life.

RELIEF

A. Issue a declaratory judgment stating that:

1. In depriving the plaintiff of a basic human need of Drinking water, The defendants violated the plaintiff's rights under the Eighth Amendment to the United States Constitution and Constituted Endangerment of Life under State Law.
2. Defendants Armstrong, Gooden, Pharr's Failure to take action to curb the deprivation of Drinking water to prisoners violated the plaintiff's rights under the Eighth Amendment to the United States Constitution and Constituted Endangerment of life under state law.

B. Issue an injunction ordering defendants Armstrong, Gooden, and Pharr or their agents to:

- 1.) Immediately comply with TDCJ policy concerning Drinking water for inmates.
- 2.) Immediately comply with "Seasonal Preparedness Directive - March 2018" to its fullest reach.
3. Issue an injunction ordering defendant Steve Massie to replace all water fountains on the Justice Camp with new ones.

VI cont.

RELIEF: cont.

C. (cont)

2.) Issue an injunction ordering defendant Steve Massie to replace the ICE machine in the Trustee Camp Kitchen. (It is old, parts are hard to find.)

D. Award ~~exp~~ compensatory damage in the following amounts:

1.) \$100,000 jointly and severally against defendants Revere M Danzy and Shawn M Wittig for the physical and emotional injuries sustained as a result of the plaintiff's deprivation of drinking water.

2.) \$40,000 jointly and severally against defendants Armstrong, Pharr, and Gooden for the physical and emotional injuries sustained as a result of the plaintiff's deprivation of drinking water.

3.) \$2,000 jointly and severally against defendants Klinkovsky, Reynolds, McWright, Wilcox, Gonzales, Opara, Massie, and Dumbuya for the physical and emotional injuries sustained as a result of the plaintiff's deprivation of drinking water.

~~4.5.6~~

E. Award punitive damages in the following amounts:

1.) \$ 5,000.00 each against defendants Armstrong, Pharr, and Gooden.

2.) \$ 2,000.00 each against defendant ADETAYO Ayinde

3.) \$ 500.00 each against defendants Klinkovsky, McWright, Reynolds, Dumbuya, Douglas, Wilcox, Gonzales, Opara and Massie.

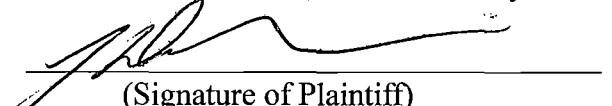
F. Grant such other relief as it may appear that plaintiff is entitled including court cost and attorney fees.

C. Has any court ever warned or notified you that sanctions could be imposed? YES NO

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): _____
2. Case number: _____
3. Approximate date warning was issued: _____

Executed on: 1-27-20
DATE

John David Kennerlee

(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 27th day of January, 20 20.
(Day) (month) (year)


John David Kennerlee
(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.